

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

JOSÉ ANTONIO RUIZ HERNÁNDEZ
ANA MARÍA MALDONADO MEDINA

DEBTORS

JOSÉ ANTONIO RUIZ HERNÁNDEZ
ANA MARÍA MALDONADO MEDINA

PLAINTIFFS

V.

HÉCTOR M. MAYOL KAUFFMAN as
Administrator of the
ADMINISTRATION OF THE RETIREMENT
SYSTEMS FOR EMPLOYEES OF THE
GOVERNMENT AND THE JUDICARY of
the Commonwealth of Puerto Rico;
JESUS A. FLORES HUGGINS as
Supervisor of the Computation
Section, Pensioned Division, of
the ADMINISTRATION OF THE
RETIREMENT SYSTEMS FOR EMPLOYEES
OF THE GOVERNMENT AND THE
JUDICARY of the Commonwealth of
Puerto Rico of the Commonwealth
of Puerto Rico; SECRETARY OF
JUSTICE, GUILLERMO SOMOZA
COLOMBANI; COMMONWEALTH OF
PUERTO RICO, THROUGH THE
DESIGNATED SECRETARY OF JUSTICE
OF PUERTO RICO, GUILLERMO SOMOZA
COLOMBANI, as the Attorney
General for the Commonwealth of
Puerto Rico.

DEFENDANTS

JOSÉ R. CARRION MORALES, ESQ.
Chapter 13 Trustee

Case No.: 09-00212 (ESL)

CHAPTER 13

ADV. PROCEEDING: 10-00189

ANSWER TO COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, Defendants, the Administration of the Retirement Systems for Employees of the Government and the Judiciary and the Commonwealth of Puerto Rico, through the Secretary of Justice, by the undersigned counsel, and very respectfully avers and prays as follows:

INTRODUCTION

1. This action was filed by Plaintiffs to enforce the Order of Confirmation duly entered in this Chapter 13 case, the Automatic Stay Order duly entered in this case, and to enforce and to implement other Bankruptcy Code provisions and Rules related thereto, and to prevent an abuse of process and to preclude the frustration of the orderly administrations of this case.

2. The appearing Co-Defendants seeks that this Honorable Court denies any and all allegations, interests, damages, attorney's fees and cost against them and the dismissal of the case.

GENERAL ALLEGATIONS

3. All conclusions of law and jurisdiction contained in the complaint are disputed insofar as applicable to the factual allegations herein.

4. All factual allegations contained in the complaint, except those specifically admitted below and only as qualified therein, are hereby denied.

5. Appearing co-defendants reserve their right to amend the answers and affirmative defenses set forth below as deemed necessary.

I. JURISDICTION & VENUE

6. The allegations of paragraph # 2 under Jurisdiction & Venue are legal arguments and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in the paragraph # 2 are denied.

7. The allegations of paragraph # 3 under Jurisdiction & Venue are legal arguments and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in the paragraph # 3 are denied.

8. The allegations of paragraph # 4 under Jurisdiction & Venue are legal arguments and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in the paragraph # 4 are denied.

II. PARTIES

9. The allegations of paragraph #5 under Parties are admitted.

10. The allegations of paragraph #6 under Parties are admitted.

11. The allegations of paragraph #7 under Parties are admitted.

12. The allegations of paragraph #8 under Parties are admitted.

13. The allegations of paragraph #9 under Parties are admitted.

III. FACTS

14. The allegation of paragraph # 10 under Facts is admitted.

15. The allegation of paragraph # 11 under Facts is denied for lack of knowledge and/or official information sufficient to form a believe as to the truth or falsity of the allegation.

16. The allegations of paragraph # 12 under Facts are admitted.

17. The allegations of paragraph # 13 under Facts are denied as stated for the form in which it is written.

18. The allegations of paragraph # 14 under Facts are admitted.

19. The allegations of paragraph # 15 under Facts are admitted.

20. The allegations of paragraph # 16 under Facts are denied.

21. The allegations of paragraph # 17 under Facts are admitted.

22. The allegations of paragraph # 18 under Facts are admitted.

23. The allegations of paragraph # 19 under Facts are denied for lack of knowledge.

24. The allegations of paragraph # 20 under Facts are denied.

25. The allegations of paragraph # 21 under Facts are denied.

26. The allegations in paragraph # 22 under Facts are denied.

IV. ARGUMENTATION

27. The allegations in paragraph 23 under Argumentation are denied.

28. The allegations in paragraph 24 under Argumentation are denied.

29. The allegations in paragraph 25 under Argumentation are denied.

30. The first sentence of the allegations in paragraph 26 under Argumentation is admitted. The second sentence of

the allegations in paragraph 26 under Argumentation is denied for lack of knowledge.

31. The allegations in paragraph 27 under Argumentation are denied for the form in which it is written.

32. The allegations in paragraph 28 under Argumentation are denied.

33. The allegations in paragraph 29 under Argumentation are denied.

34. The allegations in paragraph 30 under Argumentation are denied. It was not a collection letter.

35. The allegations in paragraph 31 under Argumentation are denied for the form in which it is written.

36. The allegations in paragraph 32 under Argumentation are denied.

37. The allegations in paragraph 33 under Argumentation are denied for the form in which it is written.

38. The allegations in paragraph 34 under Argumentation are denied for the form in which it is written.

39. The allegations in paragraph 35 under Argumentation are denied.

40. The allegations in paragraph 36 under Argumentation are denied.

41. The allegations in paragraph 37 under Argumentation are denied for lack of knowledge.
42. The allegations in paragraph 38 under Argumentation are denied.
43. The allegations in paragraph 39 under Argumentation are denied.
44. The allegations in paragraph 40 under Argumentation are denied.
45. The allegations in paragraph 41 under Argumentation are denied.
46. The allegations in paragraph 42 under Argumentation are denied.
47. The allegations in paragraph 43 under Argumentation are denied.
48. The allegations in paragraph 44 under Argumentation are denied.
49. The allegations in paragraph 45 under Argumentation are denied.
50. The allegations in paragraph 46 under Argumentation are denied.
51. The allegations in paragraph 47 under Argumentation are denied.

52. The allegations in paragraph 48 under Argumentation are denied.

53. The allegations in paragraph 49 under Argumentation are denied.

54. The allegations in paragraph 50 under Argumentation are denied.

55. The allegations in paragraph 51 under Argumentation contain a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 51 are denied.

56. The allegations in paragraph 52 under Argumentation are legal arguments and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in the paragraph # 52 are denied.

57. The allegations in paragraph 53 under Argumentation are legal arguments and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in the paragraph # 53 are denied.

V. FIRST CLAIM:

WILLFUL VIOLATION OF THE AUTOMATIC STAY ORDER

58. Since paragraph # 54 under First Claim reinstates all the previous allegations, the answers to the specific allegations are also hereby incorporated.

59. The allegations in paragraph # 55 under First Claim contain a legal arguments and conclusions of law and do not require a responsive pleading, but if one is required, all allegations in paragraph # 55 are denied.

60. The allegations in paragraph # 56 under First Claim are denied.

61. The allegations in paragraph # 57 under First Claim are denied.

62. The allegations in paragraph # 58 under First Claim are denied.

63. The allegations in paragraph # 59 under First Claim are denied.

64. The allegations in paragraph # 60 under First Claim are denied.

65. The allegations in paragraph # 61 under First Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 61 are denied.

66. The allegations in paragraph # 62 under First Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 62 are denied.

67. The allegations in paragraph # 63 under First Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 63 are denied.

68. The allegations in paragraph # 64 under First Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 64 are denied.

69. The allegations in paragraph # 65 under First Claim contain a legal arguments and conclusions of law and do not require a responsive pleading, but if one is required, all allegations in paragraph # 65 are denied.

70. The allegations in paragraph # 66 under First Claim contain a legal arguments and conclusions of law and do not require a responsive pleading, but if one is required, all allegations in paragraph # 66 are denied.

71. The allegations in paragraph # 67 under First Claim contain a legal arguments and conclusions of law and do not require a responsive pleading, but if one is required, all allegations in paragraph # 67 are denied.

72. The allegations in paragraph # 68 under First Claim contain a legal arguments and conclusions of law and do not require a responsive pleading, but if one is required, all allegations in paragraph # 68 are denied.

73. The allegations in paragraph # 69 under First Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 69 are denied.

VI. SECOND CLAIM:

WILLFUL VIOLATION OF ORDER OF CONFIRMING PLAN

74. Since paragraph # 70 under Second Claim reinstates all the previous allegations, the answers to the specific allegations are also hereby incorporated.

75. The allegations of paragraph # 71 under Second Claim contain a legal arguments and conclusions of law and do not require a responsive pleading, but if one is required, all allegations in paragraph # 71 are denied.

76. The allegations of paragraph # 72 under Second Claim are denied.

77. The allegations of paragraph # 73 under Second Claim are denied.

78. The allegations of paragraph # 74 under Second Claim are denied.

79. The allegations of paragraph # 75 under Second Claim are denied.

80. The allegations of paragraph # 76 under Second Claim are denied.

81. The allegations of paragraph # 77 under Second Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 77 are denied.

82. The allegations of paragraph # 78 under Second Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 78 are denied.

83. The allegations of paragraph # 79 under Second Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading,

but if one is required, all allegations in paragraph # 79 are denied.

84. The allegations of paragraph # 80 under Second Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 80 are denied.

85. The allegations of paragraph # 81 under Second Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 81 are denied.

86. The allegations of paragraph # 82 under Second Claim contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in paragraph # 82 are denied.

87. The allegations of paragraph # 83 under Second Claim are denied for lack of knowledge.

88. The allegations of paragraph # 84 under Second Claim contain a legal arguments and conclusions of law and do not require a responsive pleading, but if one is required, all allegations in paragraph # 84 are denied.

89. The allegations of paragraph # 85 under Second Claim contain a legal arguments and conclusions of law and do not require a responsive pleading, but if one is required, all allegations in paragraph # 85 are denied.

90. The last paragraph of the Complaint contains a claim for relief against the Defendants and conclusions of law and does not require a responsive pleading, but if one is required, all allegations in the final paragraph are denied.

AFFIRMATIVE ANSWERS

LEGAL CONTENTIONS

1. The Complaint fails to state a claim upon which relief may be granted against the appearing Defendants.

2. The Complaint fails to state a claim cognizable under any applicable federal or state statute.

3. The appearing Defendants, at all times, acted according to law and in good faith in the performance of their duties. Consequently, any conduct by the Defendants could not have possibly resulted in the alleged violation of Plaintiff rights.

4. The appearing Defendants acted at all times within the established legal and regulatory framework and they neither negligently nor intentionally violated any of Plaintiff rights.

5. Any damages suffered by Plaintiff was caused by his own negligence or conduct as they are directly responsible for the events that gave rise to the Complaint, and not the result of any act or omission that can be attributed to appearing Defendants.

6. In the hypothesis that Plaintiff is entitled to any relief, which the appearing Defendant denies, Plaintiff is not entitled to recover any damages, nor is he entitled to punitive damages.

7. Plaintiff is estopped from seeking injunctive relief by the doctrine of laches and/or by plaintiff's own actions.

8. The appearing Defendants hereby reserve the right to amend the pleading, to bring any other party, and/or to raise any other affirmative defense, according to the established procedure, that arise as a result of the discovery.

9. The Plaintiffs/Debtors recognized in Schedule B-Personal Property- that the Retirement benefits from ELA are not property of the estate.

10. Defendants are entitled to Immunity under the IX Amendment.

11. Defendants did not violate the automatic stay.

WHEREFORE, the Administration of the Retirement Systems for Employees of the Government and the Judiciary and the Commonwealth of Puerto Rico, through the Secretary of Justice,

respectfully requests and prays this Honorable Court that the Complaint be dismissed, judgment entered in Co-Defendants' favor; that Plaintiff be charged with costs and attorney's fees; and grant any other relief which may be deemed proper.

CERTIFICATE OF SERVICE

I hereby certify that on this same date a true and correct copy of the present *motion* was electronically filed with the clerk of the Court using CM/ECF System which will send notification of such filing at the authorized address to **Atty. José R. Carrión Morales**, Chapter 13 - US Trustee and to the Attorney for Debtors, **Atty. Jose L. Jimenez Quinones**, and to all interest parties disclosed under the List of Creditors.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 24 day of February 2011.

GUILLERMO SOMOZA COLOMBANI

Secretary of Justice of the Commonwealth
of Puerto Rico

GRISEL SANTIAGO CALDERÓN

Deputy Secretary of Justice
In Charge of Litigation

WANDYMAR BURGOS VARGAS

U.S.D.C. No. 223502
Director of Legal Affairs
Federal Litigation Division

//S// MIGDA LIZ RODRÍGUEZ COLLAZO

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U.S.D.C. NO. 224608
Attorney

ANSWER OF THE COMPLAINT
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